IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.K.DENESAN

MONDAY, THE 19TH MARCH 2007 / 28TH PHALGUNA 1928

WP(C).No. 8023 of 2007(E)

PETITIONER:

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1. V.ACHUTHAN, S/O.NARAYANAN, AGED 47, SUB INSPECTOR OF POLICE, PATHANAMTHITTA, RESIDING AT MAVOLIL THEKKETHU, PORUVAZHI NEDUVILEMURI, CHATHAKULAM P.O., KOLLAM.

2. A.S.SURESH KUMAR, S/O.APPU, 45 YEARS, SUB INSPECTOR OF POLICE, VALIYATHURA POLICE STATION,THIRUVANANTHAPURAM CITY RESIDING AT LATHA VILASOM, T.V.JUNCTION, NEYYATTINKARA P.O. THIRUVANANTHAPURAM.

3. V.K.RADHAKRISHNAN, S/O.C.K.VELAYUDHAN, AGED 44 YEARS, SUB INSPECTOR OF POLICE, CITY TRAFFIC POLICE STATION, TRIVANDRUM RESIDING AT TC 64/1874-3 ANJANAYA, PUZHAYORAM, THIRUVALAM P.O THIRUVANANTHAPURAM.

4. M.PRAKASH, S/O.MADHAVAN, AGED 47 YEARS, SUB INSPECTOR OF POLICE, PARAVOOR, KOLLAM, RESIDING AT HOUSE NO.105, AISHWARYA NAGAR, MEVARA, THALLAKONAM, SREEKARYAM, THIRUVANANTHAPURAM.

BY ADV. SRI.V.VENUGOPALAN NAIR
SRI.C.UUNIKRISHNAN(KOLLAM)
SRI.M.R.RAJENDRAN NAIR (SR.)

RESPONDENTS:

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1. STATE OF KERALA, REPRESENTED BY ITS SECRETARY, DEPARTMENT OF HOME AFFAIRS, SECRETARIAT, THIRUVANANTHAPURAM.

2. THE DIRECTOR GENERAL & INSPECTOR GENERAL OF POLICE, POLICE HEADQUARTERS, THIRUVANANTHAPURAM.

3. THE DEPUTY INSPECTOR GENERAL OF POLICE,
THIRUVANANTHAPURAM RANGE, THIRUVANANTHAPURAM.

4. ASHOK KUMAR, SUB INSPECTOR OF POLICE,
CHINGAVANAM, KOTTAYAM.

5. MOHANDAS, SUB INSPECTOR OF POLICE,
MARAYOOR, IDUKKI.

BY GOVERNMENT PLEADER SRI.BIJOY CHANDRAN

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 19/03/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

K.K.DENESAN, J

W.P.(C)NO.8023 of 2007

Dated this the 19th day of March, 2007

JUDGMENT

The petitioners are Sub Inspectors of Police. In the revised provisional seniority list (Ext.P12) published for the period from 1.1.1998 to 31.12.2002 by the second respondent, the names of respondents 4 and 5 and others who, according to the petitioners, are juniors have been included. The petitioners point out that in the final seniority list published as per Ext.P8 after calling for objections etc., the petitioners have been assigned proper rank and seniority. It is contended that Ext.P12 has been published to suit the convenience of some of the members of the service and the same causes prejudice to persons like the petitioners who are eligible to be assigned rank and seniority as was done in Ext.P8. Counsel submits that once a seniority list has been finalised, it is improper for the very same authority to

demolish that list and to come out with a revised provisional list behind the back of those who have been enjoying the seniority based on the final list. It is, therefore, prayed that Ext.P12 is liable to be interfered with. At any rate, further proceedings pursuant to Ext.P12 shall have to be kept in abeyance, contends the learned counsel.

2. Government Pleader was directed to seek instructions in the matter. When this writ petition had come up for consideration on 16.3.2007, the learned Government Pleader brought to my notice that Ext.P12 (revised provisional seniority list) stands finalised after considering the objections received from the aggrieved members of the service. Annexure-R1 is the proceedings issued by the second respondent on 8.3.2008 circulating the final seniority list thus prepared for the period from 1.1.1998 to 31.12.2002.

3. In the light of the above fact, it is necessary that the correctness and validity of Annexure-R1 list will have to be challenged in appropriate proceedings by those who feel aggrieved by the rank and seniority assigned in that list. Rule

27B of Kerala State and Subordinate Service Rules confers necessary power on the Government to look into the grievance of the members of the service against determination of seniority and to set aside or modify the seniority list as also to correct errors, if any, that would come to the notice of the Government. The above provision affords effective remedy for the petitioners also who feel aggrieved by Annexure R1 list. Hence, it is only appropriate that the petitioners approach the first respondent Government by filing representation in terms of Rule 27B of KS&SSR against Annexure R1 seniority list. If the petitioners file such a representation, the first respondent shall discharge the statutory duty cast on it, and after hearing the petitioners and others, who may be affected in the event of any interference with Annexure R1 list, take appropriate decision, in accordance with law, as expeditiously as possible.

4. Counsel for the petitioner submits that even assuming (without conceding) that Annexure R1 seniority list is valid and it conforms to the provisions of law, there is cause for the petitioners to feel aggrieved for yet another reason, namely, that

the said list is prepared and published only for the period from 1.1.1998 to 31.12.2002 and that those entitled to count their seniority thereafter have no idea as to where they stand. Counsel points out that much time has been consumed for the preparation and publication of Annexure R-1 seniority list and that persons who would like to know their rank position in the seniority list to be prepared for the subsequent period shall not be made to wait indefinitely. If the petitioners are not eligible (without conceding that they are not eligible for inclusion in Annexure R1 list) they should be informed about their rank position atleast for the subsequent period. Counsel points out the necessity to prepare the provisional seniority list for the subsequent period and early action to finalise the same.

5. I feel that the submission of the counsel is well founded. It is in the interest of the department as well as that of the members of the service to determine the rank and seniority of the members of the service so that, at the earliest, they will be able to work out their service prospects effectively for future purposes.

6. Hence, there shall be an order directing the second respondent to publish the provisional seniority list of Sub Inspectors of Police (General Executive) for the period from 1.1.2003 to 31.12.2005 and circulate the same for the information of all concerned, so that, aggrieved persons may file their objections within the time prescribed therein. I say so, because the petitioners have got a grievance that they did not get timely intimation about the publication of the previous seniority list which was finalised as per Annexure R1. Of course, the department claims that the seniority list was circulated for the information of all the members of the service.

7. A time limit of four months from the date of receipt of a copy of the judgment is fixed for publishing the provisional seniority list of S.I. of Police (General Executive) for the period from 1.1.2003 to 31.12.2005 and for finalising the same in accordance with law.

8. Counsel for the petitioner submits that a representation under Rule 27B of KS&SSR will be filed by the petitioners before the first respondent within one week from today. If

representation is filed by the petitioners, as stated above, the same shall be taken up by the Government for consideration, notices are issued to the petitioners and affected persons without delay and final orders are passed within two months from the date of receipt of a copy of the judgment. Promotions, if any, made to the post of Circle Inspectors of Police on the basis of Annexure-R1 seniority list will be subject to the orders of the Government under the Rule 27B of Part II of KS&SSR.

With the above directions, the writ petition is disposed of.

K.K.DENESAN, JUDGE

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